

agement in administering oaths in matters before the Office for provisions respecting powers of the Chairman of the Civil Service Commission and each Commissioner in administering oaths in matters before the Commission.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 1307. Minutes

The Civil Service Commission shall keep minutes of its proceedings.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 633(3) (last 10 words).	Jan. 16, 1883, ch. 27, §2(3) (last 10 words), 22 Stat. 404.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

Functions vested by statute in United States Civil Service Commission transferred to Director of Office of Personnel Management (except as otherwise specified) by Reorg. Plan No. 2 of 1978, §102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of this title, effective Jan. 1, 1979, as provided by section 1-102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of this title.

[§ 1308. Repealed. Pub. L. 105-362, title XIII, § 1302(b)(1), Nov. 10, 1998, 112 Stat. 3293]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 91-93, title I, §104, Oct. 20, 1969, 83 Stat. 138; Pub. L. 93-156, Nov. 21, 1973, 87 Stat. 623; Pub. L. 95-454, title IX, §906(a)(2), (3), Oct. 13, 1978, 92 Stat. 1224; Pub. L. 96-54, §2(a)(3), Aug. 14, 1979, 93 Stat. 381; Pub. L. 96-470, title I, §121, Oct. 19, 1980, 94 Stat. 2241, required annual reports on operation of subchapter III of chapter 83 of this title and chapters 87 and 89 of this title.

CHAPTER 15—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

Sec.	
1501.	Definitions.
1502.	Influencing elections; taking part in political campaigns; prohibitions; exceptions.
1503.	Nonpartisan candidacies permitted.
1504.	Investigations; notice of hearing.
1505.	Hearings; adjudications; notice of determinations.
1506.	Orders; withholding loans or grants; limitations.
1507.	Subpenas and depositions.
1508.	Judicial review.

AMENDMENTS

1974—Pub. L. 93-443, title IV, §401(b)(2), Oct. 15, 1974, 88 Stat. 1290, substituted “candidacies” for “political activity” in item 1503.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1212, 1215, 1216, 1302, 4703 of this title; title 23 section 142; title 42 sections 2996e, 3056, 4728, 9851.

§ 1501. Definitions

For the purpose of this chapter—

(1) “State” means a State or territory or possession of the United States;

(2) “State or local agency” means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;

(3) “Federal agency” means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and

(4) “State or local officer or employee” means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 403; Pub. L. 93-443, title IV, §401(c), Oct. 15, 1974, 88 Stat. 1290.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
(1)	5 U.S.C. 118k-2.	July 19, 1940, ch. 640, §4 “Sec. 19”, 54 Stat. 772.
(2), (3)	5 U.S.C. 118k(f).	July 19, 1940, ch. 640, §4 “Sec. 12(f)”, 54 Stat. 770.
(4)	5 U.S.C. 118k(a) (1st 41 words), (e).	July 19, 1940, ch. 640, §4 “Sec 12(a) (1st 41 words), (e)”, 54 Stat. 767, 770.
	5 U.S.C. 118k-1 (as applicable to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620 “Sec. 21 (as applicable to §12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, §4, 54 Stat. 767)”, 56 Stat. 986.
(5)	5 U.S.C. 118l (as applicable to 5 U.S.C. 118k).	July 19, 1940, ch. 640, §4 “Sec. 15 (as applicable to §12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, §4, 54 Stat. 767)”, 54 Stat. 771.

In paragraph (4)(B), the words “or by any Territory or Territorial possession of the United States” are omitted in view of the definition of “State” in paragraph (1).

In paragraph (5), the words “July 19, 1940” are substituted for “at the time this section takes effect”.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Par. (5). Pub. L. 93-443 struck out par. (5) which defined “an active part in political management or in political campaigns”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

CROSS REFERENCES

Political activities of certain Federal employees and employees of the government of the District of Columbia, see section 7321 et seq. of this title.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) be a candidate for elective office.

(b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

(c) Subsection (a)(3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;

(2) the mayor of a city;

(3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil-service system; or

(4) an individual holding elective office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93-443, title IV, § 401(a), Oct. 15, 1974, 88 Stat. 1290.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(a) (less 1st 41 words).	July 19, 1940, ch. 640, § 4 "Sec. 12(a) (less 1st 41 words)", 54 Stat. 767.

In subsection (a), the term "State or local officer or employee", defined in section 1501, is substituted for the first 41 words of former section 118k(a). The words "any part of his salary or compensation" are omitted as included in "anything of value".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93-443 substituted "be a candidate for elective office" for "take an active part in political management or in political campaigns".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506 of this title; title 42 section 9851.

§ 1503. Nonpartisan candidacies permitted

Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received

votes in the last preceding election at which Presidential electors were selected.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93-443, title IV, § 401(b)(1), Oct. 15, 1974, 88 Stat. 1290.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118n (as applicable to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 772.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Pub. L. 93-443 substituted "candidacies" for "political activity" in section catchline and provision permitting nonpartisan candidacies for prior provision permitting political activity in connection with (1) an election and the preceding campaign if none of the candidates was to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) a question which was not specifically identified with a National or State political party and deeming questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character as not specifically identified with a National or State political party.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

§ 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Special Counsel. On receipt of the report or on receipt of other information which seems to the Special Counsel to warrant an investigation, the Special Counsel shall investigate the report and such other information and present his findings and any charges based on such findings to the Merit Systems Protection Board, which shall—

(1) fix a time and place for a hearing; and

(2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95-454, title IX, § 906(a)(7), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence).	July 19, 1940, ch. 640 §4 “Sec. 12(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence)”, 54 Stat. 768. June 11, 1960, Pub. L. 86-507, §1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95-454 substituted provisions respecting the functions of the Special Counsel and the Merit Systems Protection Board for provisions respecting the functions of the Civil Service Commission.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1505, 1508 of this title.

§ 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Merit Systems Protection Board shall—

- (1) determine whether a violation of section 1502 of this title has occurred;
- (2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and
- (3) notify the officer or employee and the agency of the determination by registered or certified mail.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(b) (3d sentence, less 4th, through 17th words, and 4th sentence).	July 19, 1940, ch. 640, §4 “Sec. 12(b) (3d sentence, less 4th through 17th words, and 4th sentence)”, 54 Stat. 768. June 11, 1960, Pub. L. 86-507, §1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95-454 substituted “Merit Systems Protection Board” for “Civil Service Commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1506. Orders; withholding loans or grants; limitations

(a) When the Merit Systems Protection Board finds—

(1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Board that he has violated section 1502 of this title and that the violation warrants removal; or

(2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office or employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Board shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years’ pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Board order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination of order of the Board becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Board may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(b) (less 1st 4 sentences).	July 19, 1940, ch. 640, §4 “Sec. 12(b) (less 1st 4 sentences)”, 54 Stat. 768. June 11, 1960, Pub. L. 86-507, §1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454 substituted “Merit Systems Protection Board” for “Civil Service Commission” and “Board” for “Commission”, respectively, wherever appearing.

Subsecs. (b), (c). Pub. L. 95-454 substituted “Board” for “Commission”.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1507. Subpenas and depositions

(a) The Merit Systems Protection Board may require by subpoena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Board may sign subpoenas, and members of the Board and its examiners when authorized by the Board may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpoena, the Board may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpoena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Board, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Board may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Board and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Board as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpoena on the ground that the testimony or evidence, documentary or otherwise required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Board in obedience to a subpoena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(d) (less 1st sentence).	July 19, 1940, ch. 640, §4 "Sec. 12(d) (less 1st sentence)", 54 Stat. 769.

In subsection (a), the word "affirmation" is omitted as included in "oath" on authority of section 1 of title 1, United States Code. The title of the court is changed to conform to title 28.

In subsection (c), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-454 substituted "Merit Systems Protection Board" and "Board" for "Civil Service Commission" and "Commission", respectively, wherever appearing.

Subsecs. (b), (c). Pub. L. 95-454 substituted "Board" for "Commission" wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

§ 1508. Judicial review

A party aggrieved by a determination or order of the Merit Systems Protection Board under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

(1) the court specifically orders a stay; and

(2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Board, and thereupon the Board shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Board, the court may direct that the additional evidence be taken before the Board in the manner and on the terms and conditions fixed by the court. The Board may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; or the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Board with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and

decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Board, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406; Pub. L. 95-454, title IX, §906(a)(6), Oct. 13, 1978, 92 Stat. 1225.)

HISTORICAL AND REVISION NOTES

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	5 U.S.C. 118k(c).	July 19, 1940, ch. 640, §4 "Sec. 12(c)", 54 Stat. 768.

Sections 346 and 347 of title 28 referred to in former section 118k(c) were repealed by the Act of June 25, 1948, ch. 646, §39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, "written" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1978—Pub. L. 95-454 substituted "Merit Systems Protection Board" and "Board" for "Civil Service Commission" and "Commission", respectively, wherever appearing.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-454 effective 90 days after Oct. 13, 1978, see section 907 of Pub. L. 95-454, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1506 of this title.

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AMENDMENTS

1998—Pub. L. 105-206, title I, §1201(b), July 22, 1998, 112 Stat. 719, added items for subpart I and chapter 95.

1993—Pub. L. 103-89, §3(a)(2), Sept. 30, 1993, 107 Stat. 981, struck out item for chapter 54 "Performance Management and Recognition System".

1986—Pub. L. 99-335, title I, §101(b), June 6, 1986, 100 Stat. 588, added item for chapter 84.

1985—Pub. L. 99-169, title VIII, §801(b), Dec. 4, 1985, 99 Stat. 1010, added items for subpart H and chapter 91.

1984—Pub. L. 98-615, title II, §201(b), Nov. 8, 1984, 98 Stat. 3214, substituted "Performance Management and Recognition System" for "Merit Pay and Cash Awards" in item for chapter 54.

1978—Pub. L. 95-454, title I, §101(b)(1), title II, §203(b), title V, §503(i), title VI, §601(b), title VII, §703(b), title IX, §906(c)(5), Oct. 13, 1978, 92 Stat. 1118, 1134, 1184, 1188, 1217, 1227, added items for chapters 23, 34, 47, 54, and 72, substituted in item for chapter 43 "Appraisal" for "Rating" and in item for chapter 71 "Labor-Management Relations" for "Policies", and inserted in heading of subpart F "Labor-Management and" before "Employee".

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in title 28 section 996; title 29 section 795b; title 42 section 3056b; title 44 section 2105; title 47 sections 154, 332.

¹ So in original. Probably should be capitalized.